

§ 163.146 Will the OCC permit my capital distribution?

The OCC will review your notice or application under the review procedures in 12 CFR part 116, subpart E, except that the OCC will not act on informational copies of the notice submitted to the OCC pursuant to § 163.143(d). The OCC may disapprove your notice or deny your application filed under § 163.143, in whole or in part, if it makes any of the following determinations.

(a) You will be undercapitalized, significantly undercapitalized, or critically undercapitalized as set forth in § 165.4(b) of this chapter, following the capital distribution. If so, the OCC will determine if your capital distribution is permitted under 12 U.S.C. 1831o(d)(1)(B).

(b) Your proposed capital distribution raises safety or soundness concerns.

(c) Your proposed capital distribution violates a prohibition contained in any statute, regulation, agreement between you and the OCC or the OTS, or a condition imposed on you in an application or notice approved by the OCC or the OTS. If so, the OCC will determine whether it may permit your capital distribution notwithstanding the prohibition or condition.

Subpart F—Financial Management Policies

§ 163.161 Management and financial policies.

(a)(1) For the protection of depositors and other savings associations, each Federal savings association and each service corporation must be well managed and operate safely and soundly. Each also must pursue financial policies that are safe and consistent with economical home financing and the purposes of savings associations. In implementing this section, the OCC will consider that service corporations may be authorized to engage in activities that involve a higher degree of risk than activities permitted to savings associations.

(2) As part of meeting its requirements under paragraph (a)(1) of this section, each Federal savings association and service corporation must

maintain sufficient liquidity to ensure its safe and sound operation.

(b) Compensation to officers, directors, and employees of each Federal savings association and its service corporations shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities. Former officers, directors, and employees of savings association or its service corporation who regularly perform services therefore under consulting contracts are employees thereof for purposes of this paragraph (b).

§ 163.170 Examinations and audits; appraisals; establishment and maintenance of records.

(a) *Examinations and audits.* Each Federal savings association and affiliate thereof shall be examined periodically, and may be examined at any time, by the OCC, with appraisals when deemed advisable, in accordance with general policies from time to time established by the OCC. The costs, as computed by the OCC, of any examinations made by it, including office analysis, overhead, per diem, travel expense, other supervision by the OCC, and other indirect costs, shall be paid by the savings associations examined, except that in the case of service corporations of Federal savings associations the cost of examinations, as determined by the OCC, shall be paid by the service corporations. Payments shall be made in accordance with a schedule of annual assessments based upon each savings association's total assets and of rates for examiner time in amounts determined by the OCC.

(b) *Appraisals.* (1) Unless otherwise ordered by the OCC, appraisal of real estate by the OCC in connection with any examination or audit of a savings association, affiliate, or service corporation shall be made by an appraiser, or by appraisers, selected by the OCC. The cost of such appraisal shall promptly be paid by such savings association, affiliate, or service corporation direct to such appraiser or appraisers upon receipt by the savings association, affiliate, or service corporation of a statement of such cost as approved by the OCC. A copy of the report of each appraisal made by the OCC